

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

MUSLIMS ON LONG ISLAND, INC., IMRAN
MAKDA, and MOEEN QURESHI,

Plaintiffs,

v.

THE TOWN OF OYSTER BAY, SCOTT BYRNE,
in his official capacity, JAMES CASTELLANE, in
his official capacity, CLIFFORD CHABINA, in his
official capacity, ANTHONY DILEONARDO, in his
official capacity, ANGELO STANCO, in his official
capacity, and LOUIS WARNER, in his official
capacity,

Defendants.

Civil Action
Docket #: 2:25-cv-00428

[PROPOSED] Brief of American-Arab Anti-Discrimination Committee (ADC), Arab American Association Of New York (AAANY), Asian American Legal Defense and Education Fund (AALDEF), The Association of Muslim American Lawyers (AMAL), Children of Adam, Council on American-Islamic Relations (CAIR-NY), Hillside Islamic Center, Islamic Circle of North America, Jaam'e Masjid Bellmore, New York (ICNA NY), ICNA Council for Social Justice, New York, Long Island Muslim Society (LIMS), Majlis Ash-Shura: Islamic Leadership Council Of New York, Masjid Hamza, Muslim American Society, New York (MAS NY), Muslim Bar Association of New York (MuBANY), and Palestinian American Bar Association (PABA), as Amici Curiae in Support of Plaintiffs

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TABLE OF CONTENTS

STATEMENT OF INTEREST	7
SUMMARY OF ARGUMENT	7
ARGUMENT	9
I. Understanding Islamophobia and anti-Muslim racism	9
II. Long Island’s Entrenched Anti-Muslim Sentiment	12
A. There is a Rising Trend in Hate Crimes and Bias Incidents Against Muslims in New York	13
B. Long Island’s Elected Representatives Have Reinforced Local Anti-Muslim Sentiment	16
III. Oyster Bay is Not Unique Within the State and National Landscape of Years-Long Anti-Mosque Zoning Battles	19
IV. Federal Courts Rely on a Wide Range of Evidence in Evaluating RLUIPA violations	21
CONCLUSION	25
CERTIFICATE OF SERVICE	26
A. APPENDIX: AMICI STATEMENT OF INTEREST	27

CASES

<i>Adam Cmty. Ctr. v. City of Troy</i> , No. 18-13481, 2020 WL 7493102, at *1 (E.D. Mich. Dec. 20, 2020)	24
<i>Al Falah Ctr. v. Twp. of Bridgewater</i> , No. 11-2397, 2013 WL 12322637, at *7 (D.N.J. Sept. 30, 2013)	24
<i>Chabad Lubavitch of Litchfield Cnty., Inc. v. Litchfield Historic Dist. Comm'n</i> , 768 F.3d 183 (2d Cir. 2014)	22
<i>City of Cleburne v. Cleburne Living Ctr.</i> , 473 U.S. 432 (1985)	22
<i>Islamic Ctr. of Miss., Inc. v. City of Starkville</i> , 840 F.2d 293, 302 (5th Cir. 1988)	22
<i>Islamic Soc'y of Basking Ridge v. Twp. of Bernards</i> , 226 F. Supp. 3d 320 (D.N.J. 2016)	22, 23
<i>Jesus Christ Is the Answer Ministries, Inc. v Baltimore County, Maryland</i> , 915 F3d 256 2019 <i>as amended</i> (Feb. 25, 2019)	22, 25
<i>Marks v. City of Chesapeake</i> , 883 F.2d 308 (4th Cir. 1989)	22
<i>Smith v. Town of Clarkton</i> , 682 F.2d 1055 (4th Cir. 1982)	22
<i>United States v County of Culpeper, Virginia</i> , 245 F Supp 3d 758 (WD Va 2017)	23, 24
<i>Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.</i> , 429 U.S. 252, 266 (1977)	22, 24

STATUTES

42 U.S.C. 2000cc, et seq	7, 8
New York's Penal Law § 485.05	13

OTHER AUTHORITIES

Ayman Ismail, <i>The Mosque Wars</i> , SLATE (Sept. 11, 2021, 6:25 PM), https://slate.com/human-interest/2021/09/september-11-new-mosques-islam-ground-zero.html	19
Bruce Blakeman, <i>Issue Position: Mosque</i> , VOTESMART.ORG,	17
<i>CAIR-NY 2023 Annual Report</i> . CAIR-NY, https://www.cair-ny.org/s/2023-Annual-Report.pdf (last visited Mar. 26, 2025).	12
<i>CAIR-NY Condemns Apparent Hate Attack on 13-Year-Old Sikh Boy Called 'Mohamed' by Assailants</i> , CAIR-NY (Jun. 2, 2021), https://www.cair.com/press_releases/cair-ny-condemns-apparent-hate-attack-on-13-year-old-sikh-boy-called-mohamed-by-assailants/	14
Candace Ferrette, <i>Nassau County Assembly candidate Vibhuti Jha apologizes for anti-Muslim, anti-Sikh tweets</i> , NEWSDAY.COM (Nov. 4, 2022), https://www.newsday.com/long-island/politics/elections/vibhuti-jha-assembly-sillitti-tweet-x21edhk7	18
Cecilia Dowd, <i>Suffolk man faces hate crime charges, accused of ramming car with 4 Muslim men in it</i> , NEWS12 LONG ISLAND (Jul. 18, 2024), https://longisland.news12.com/suffolk-man-faces-hate-crime-charges-accused-of-ramming-car-with-4-muslim-men-in-it	
CeFaan Kim, <i>21-year-old recovering from horrifying hazardous substance attack by stranger on Long Island</i> , ABC7 (Apr. 22, 2021), https://abc7ny.com/acid-attack-nafiah-ikram-hofstra-elmont/10535670/	13

Chris Fuchs, <i>Islamic Community Group Sues City Alleging House Made Landmark to Stop Mosque</i> , NBC NEWS (September 23, 2016) https://www.nbcnews.com/news/asian-america/islamic-community-group-sues-city-alleging-house-made-landmark-stop-n653256.....	
<i>Controversy Over L.I. Islamic Center Parking Lot</i> , CBS NEWS NEW YORK (Sep. 23, 2010), https://www.cbsnews.com/newyork/news/controversy-over-l-i-islamic-center-parking-lot/ ..	20
COUNCIL ON AMERICAN-ISLAMIC RELATIONS, <i>Imam Siraj Wahhaj to Speak at Mosque Fundraiser</i> , https://www.cair.com/cair_in_the_news/nh-imam-siraj-wahhaj-to-speak-at-mosque-fundraiser/ (last visited Mar. 26, 2025).....	17
Daniel Burke, Pamela Geller, <i>'Queen Of Muslim Bashers,' At Center Of N.Y. 'Mosque' Debate</i> , HUFFPOST.COM (Aug. 20, 2010), https://www.huffpost.com/entry/pamela-gellerqueen-of-mus_n_689709	17
Daniel W. Reilly, <i>Rep. Peter King: There are "too many mosques in this country"</i> POLITICO NOW BLOG	16
Dave Goldiner, <i>Rep. Peter King to hold hearings on 'radicalization' of American Muslims, critics fear witchhunt</i> , NEW YORK DAILY NEWS (Dec. 19, 2010), https://www.nydailynews.com/ny_local/2010/12/19/2010-12-19_rep_peter_king_to_hold_hearings_on_radicalization_of_american_muslims_critics_fe.htm	15
Dina Sher, <i>A Hearing on a Hearing: Rep. Peter King Prioritizes Navel Gazing</i> , ACLU.ORG.....	15
Ed Weintrob, <i>Islamic event tiff roils Rice-Blakeman race</i> , THEJEWISHSTAR.COM (Oct. 30, 2014),	17
Erum Ikramullah & Dalia Mogahed, <i>American Muslim Poll 2020: Amid Pandemic and Protest</i> , INST. FOR SOCIAL POLICY AND UNDERSTANDING (October 1, 2020) https://ispu.org/american-muslim-poll-2020-amid-pandemic-and-protest/	9, 10
<i>Feeling the Hate: Bias and Hate Crimes Experienced by Muslim New Yorkers</i> , CAIR-NY (September 8, 2022) https://www.cair-ny.org/feeling-the-hate-full-report	13
<i>Fire outside Long Island mosque investigated as possible hate crime</i> ,	13
<i>Graffiti found at construction site of Islamic center in Queens</i> , NY1 NEWS (March 11, 2018) https://ny1.com/nyc/all-boroughs/news/2018/03/11/nypd-hate-crime-task-force-is-investigating-a-possible-bias-incident	14
<i>Hate at Home: A News 12 Special Report</i> , NEWS12 LONG ISLAND, https://projects.news12.com/hate-at-home:-a-news-12-long-island-special-report/ (last visited Mar. 25, 2025).....	14
<i>Hate crimes investigation underway after man caught on camera harassing members of mosque</i> , ABC7 (Feb. 23, 2024), https://abc7ny.com/mosque-trespass-harassment-islamic-center-of-melville/14460773/	13
Ihsan Bagby, <i>Report 1 of the US Mosque Survey 2020: Basic Characteristics of the American Mosque</i> , INST. FOR SOCIAL POLICY AND UNDERSTANDING (June 2, 2020) https://ispu.org/report-1-mosque-survey-2020/	18, 19

Jennifer Kelleher, <i>New Hyde Park residents fight plan at Islamic center</i> , NEWSDAY.COM (Sep. 22, 2010), https://www.cbsnews.com/newyork/news/controversy-over-l-i-islamic-center-parking-lot/	20
John Gralla, <i>Floral Park man charged with scrawling derogatory graffiti on Muslim-owned shop window</i> ,	13
Justin Elliot, <i>How the "ground zero mosque" fear mongering began</i> , SALON.COM (Aug. 16, 2010), https://www.salon.com/2010/08/16/ground_zero_mosque_origins/	17,
Majd Al-Waheidi, <i>Imams Address a Mental Health Crisis Among Muslim Americans</i> , FEET IN 2 WORLDS	14, 15
Michael Gannon, <i>Vandal scrawls 9/11 graffiti at mosque site</i> , QUEENS CHRON. (March 15, 2018)	
Miriam Axel-Lute, <i>What Is Nimbyism and How Do Affordable Housing Developers Respond to it?"</i> SHELTERFORCE (November 17, 2021), https://shelterforce.org/2021/11/17/what-is-nimbyism-and-how-do-affordable-housing-developers-respond-to-it/	19
<i>Nationwide Anti-Mosque Activity</i> , ACLU https://www.aclu.org/nationwide-anti-mosque-activity (last updated October 23, 2024).....	19
Nermeen Arastu & Diala Shamas, <i>Mapping Muslims: NYPD Spying and its Impact on American Muslims</i> , CREATING LAW ENFORCEMENT ACCOUNTABILITY & RESPONSIBILITY (CLEAR) PROJECT (2013) https://www.law.cuny.edu/wp-content/uploads/page-assets/academics/clinics/immigration/clear/Mapping-Muslims.pdf	11
Nicole Santa Cruz, <i>In New York, hundreds protest planned Islamic center</i> , LOS ANGELES TIMES (Aug. 23, 2010),	
PEW RESEARCH CENTER, <i>How the U.S. General Public Views Muslims and Islam</i> (July 26, 2017), https://www.pewresearch.org/religion/2017/07/26/how-the-u-s-general-public-views-muslims-and-islam/	8
Philip Marcelo, <i>Mosques in NYC struggle to house and feed an influx of Muslim migrants this Ramadan</i> , PBS NEWS (Apr. 2, 2024, 6:39 PM), https://www.pbs.org/newshour/nation/mosques-in-nyc-struggle-to-house-and-feed-an-influx-of-muslim-migrants-this-ramadan	11
<i>Racism and the Opportunity Divide on Long Island</i> , ERASE RACISM (Jul. 2002), http://eraseracismny.org/storage/documents/education/IRP_Full_Report_with_Maps.pdf	
Rania Awaad et. al., <i>Suicide Attempts of Muslims Compared With Other Religious Groups in the US</i> , 78 J. Am. Med. Assn. Psych. 9 (2021), https://pmc.ncbi.nlm.nih.gov/articles/PMC8295887/	14
Ryan Brady, <i>City might get sued over mosque plan</i> , QUEENS CHRON. (September 1, 2016) https://www.qchron.com/editions/queenswide/city-might-get-sued-over-mosque-plan/article_8738ad4c-f223-54ad-97e6-76cda24feb0.html	20
Sadeef Ali Kully, <i>Community rallies against mosque proposal</i> , QNS (February 4, 2016) https://qns.com/2016/02/community-rallies-against-mosque-proposal/ (“[t]he January board meeting was an intense debate where cultural differences between the East and West were on display”).....	20

Sahar Aziz, Esq., Khaled A. Beydoun, Esq., Dalia Mogahed and Lakshmi Sridaran, <i>Islamophobia</i> , B.U. CTR. FOR ANTIRACIST RESEARCH 151 (2022) https://www.bu.edu/antiracism-center/files/2022/06/Islamophobia.pdf	
See Jen Chung, <i>Would-Be Brooklyn Mosque's Fence Defaced With Dead Bin Laden Graffiti</i> , GOTHAMIST (May 10, 2011), https://gothamist.com/news/would-be-brooklyn-mosques-fence-defaced-with-dead-bin-laden-graffiti	20
Thomas P. DiNapoli, <i>The Concerning Growth of Hate Crime in New York State</i> , OFFICE OF THE NEW YORK STATE COMPTROLLER, https://www.osc.ny.gov/reports/concerning-growth-hate-crime-new-york-state (last visited Mar. 25, 2025).....	
Thomas Tracy, <i>'What kind of America'? Hate-filled rally to stop mosque</i> , BROOKLYN PAPER (June 28, 2010), https://www.brooklynpaper.com/what-kind-of-america-hate-filled-rally-to-stop-mosque/	20
Youssef Chouhoud, Erum Ikramullah, and Dalia Mogahed, <i>American Muslim Poll 2022: A Politics and Pandemic Status Report</i> , INST. FOR SOCIAL POLICY AND UNDERSTANDING (August 25, 2022) https://ispu.org/american-muslim-poll-2022-1/	10

STATEMENT OF INTEREST

Amici are religious, legal, and civil liberties organizations that work to serve members of religious and other communities and have an interest in supporting American Muslims and other faith groups to exercise their religious beliefs freely without unlawful interference from government institutions. *Amici* seek to ensure that the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. 2000cc, et seq. and constitutional rights are properly enforced. *Amici* draw on their expertise and years of experience grappling with religious discrimination to contextualize the experiences of Muslims on Long Island, Inc. (“MOLI”) in the Town of Oyster Bay, New York within the larger framework of anti-Muslim animus and recent mosque opposition in New York and across the country.

Amici includes American-Arab Anti-Discrimination Committee (ADC), Arab American Association Of New York (AAANY), Asian American Legal Defense and Education Fund (AALDEF), The Association of Muslim American Lawyers (AMAL), Children of Adam, Council on American-Islamic Relations (CAIR-NY), Hillside Islamic Center (HIC), Islamic Circle of North America, Jaam’e Masjid Bellmore, New York (ICNA NY), ICNA Council for Social Justice, New York, Long Island Muslim Society (LIMS), Majlis Ash-Shura: Islamic Leadership Council Of New York, Masjid Hamza, Muslim American Society, New York (MAS NY), Muslim Bar Association of New York (MuBANY), and Palestinian American Bar Association (PABA). Individual *amici* are described in the Appendix.

SUMMARY OF ARGUMENT

The Defendants’ actions here threaten one of the most fundamental rights guaranteed by the Constitution—the right of all Americans, regardless of faith, to exercise their religious beliefs. As part of the Court’s assessment of Plaintiffs’ Motion for a Preliminary Injunction,

amici urge the Court to consider the actions of Defendants in denying Plaintiffs’ application to upgrade MOLI in its proper context: as part of a larger trend of attacks on America’s Muslim community on Long Island and elsewhere, and specifically in the context of zoning.

While mosque opponents frequently, and in this case, claim their objections are based on practical considerations such as traffic, parking, and noise levels, those asserted concerns are often pretexts masking anti-Muslim sentiment. This is not uncommon. Government officials across the country have yielded to this religious bigotry, treating mosques and Islamic centers differently than other proposed houses of worship and/or denying zoning permits without the compelling interest that is required by the Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”), a federal civil rights law that affords heightened legal protection to the use of property for religious purposes. Even where local governments strongly support religious freedom, private citizens nevertheless often seek to intimidate Muslims into forgoing the exercise of this freedom. The Constitution guarantees the right of private citizens to protest but making Muslims—or any other group—feel unwelcome in local communities conflicts with our Founders’ vision of religious liberty and tolerance.

Mosques cannot be subjected to a different land-use approval process than any other place of worship. *Amici* are a diverse group of religious, legal, and civil liberties organizations with unique experiences, concerns, and expertise regarding land-use disputes and their impact on religious minorities across the country. *Amici* urge the Court to grant Plaintiffs’ Motion for a Preliminary Injunction because Defendants have improperly applied different legal standards to a mosque simply because it is a mosque. Absent prompt intervention from this Court, fundamental rights violations will continue.

ARGUMENT

I. Understanding Islamophobia and anti-Muslim racism¹

Islamophobia is a fear, hatred, or prejudice toward Islam and Muslims that results in a pattern of discrimination and oppression.² Islamophobia creates a distorted understanding of Islam and Muslims by reducing the global and historical faith tradition of Islam, along with the rich history of cultural and ethnic diversity of its adherents, into a monolith characterized by stereotypes of violence, civilizational subversion, and fundamental otherness.³⁴ Such stereotypes are shaped and reinforced through popular culture and news media and are often legitimized by state policies.⁵ Islamophobia occurs in a wide variety of forms, manifesting through a system of both religious and racial animosity that is perpetuated interpersonally by private citizens as well institutionally at cultural and political structures, including through government structures.⁶

¹ Zainab Arain & Abbas Barzegar, *Hijacked by Hate: American Philanthropy and the Islamophobia Network*, COUNCIL ON AMERICAN-ISLAMIC RELATIONS 10 (2019), <https://islamophobia.org/wp-content/uploads/2021/09/Hijacked-by-Hate-CAIR-Islamophobia-Report-2019.pdf> (discussing that there is no firmly agreed-upon definition for Islamophobia among academics and practitioners and that the definition developed by CAIR in the *Hijacked by Hate* report is informed by multiple academic and political sources, namely UC Berkeley’s Islamophobia Research and Documentation Project, Professor Khaled Beydoun, and the All Party Parliamentary Group on British Muslims).

² *Id.*

³ *Id.*

⁴ See PEW RESEARCH CENTER, *How the U.S. General Public Views Muslims and Islam* (July 26, 2017), <https://www.pewresearch.org/religion/2017/07/26/how-the-u-s-general-public-views-muslims-and-islam/> (particularizing data on how feelings of fear and a fundamental otherness take shape when characterizing Islamophobia. A January 2016 Pew Research Center survey found that 25% of U.S. adults think half or more of Muslims in the U.S. are “anti-American,” while an additional 24% say they think “some” Muslims are anti-American. An April 2017 Pew poll further found that 50% of Americans believe Islam is not a part of “mainstream American society” compared to 43% of Americans who say that Islam is a part of mainstream American society. 44% of respondents to the April 2017 poll also believed there is a natural conflict between Islam and democracy compared to 46% who believed there is no such conflict. When the 44% who believe there is such a conflict were asked to describe in their own words the reasons for this belief, many said there is a basic incompatibility or tension between the tenets of Islam and the principles of democracy. One respondent said, “There is no democracy in Islam.”).

⁵ See, e.g., Sahar Aziz, Esq., Khaled A. Beydoun, Esq., Dalia Mogahed and Lakshmi Sridaran, *Islamophobia*, B.U. CTR. FOR ANTIRACIST RESEARCH 151 (2022) <https://www.bu.edu/antiracism-center/files/2022/06/Islamophobia.pdf> (comparing the prevalence of anti-Muslim sentiment following the terrorist attacks on 9/11 and the much *higher* prevalence of such sentiments after a wave of anti-Muslim rhetoric in 2015 and opining “Islamophobia is not organic. It is manufactured.”).

⁶ Arain & Barzegar, *supra* note 1.

These broad categories of interpersonal or institutional Islamophobia may be further understood through a lens of more precise subcategories. For example, when considering the 8,658 complaints that the Council on American-Islamic Relations (CAIR) received in 2024 alone, complaints fell under subcategories such as airline discrimination, anti-mosque incidents, banking discrimination, bullying, denial of service, education discrimination, employment discrimination, family law discrimination, FBI interrogation, First Amendment, hate crimes and hate incidents, healthcare discrimination, housing discrimination, incarcerated rights, immigration and asylum, law enforcement encounters, sports discrimination, watchlist and travel, other government discrimination, and other discrimination.⁷

The Institute for Social Policy and Understanding (ISPU) has conducted the American Muslim Poll in 2017, 2020, and 2022; all three polls managed to capture largely similar numbers, consistently illustrating the ways that American Muslims experience discrimination.⁸ In 2020, ISPU found that Muslims are more likely than other Americans to face discrimination on an interpersonal level at a restaurant or other public place (49% vs. 23% of the general public) and when interacting with peers at work or school (42% of Muslims vs. and 24% of the general public).⁹ In 2022, ISPU also found that 48% of surveyed Muslim parents who have children in K-12 public schools reported that their kids experienced religious-based bullying, including insults and physical attacks, compared with 18% of parents among the general public.¹⁰ 42% of

⁷ COUNCIL ON AMERICAN-ISLAMIC RELATIONS, *2025 Civil Rights Report: Unconstitutional Crackdowns*, 16-21 (2025) <https://static1.squarespace.com/static/57db6af7f7e0abec41695d80/t/67d080f14ceddd13268c39fc/1741718101283/FINAL+Unconstitutional+Crackdowns+PDF+%281%29.pdf>.

⁸ Erum Ikramullah & Dalia Mogahed, *American Muslim Poll 2020: Amid Pandemic and Protest*, INST. FOR SOCIAL POLICY AND UNDERSTANDING (October 1, 2020) <https://ispu.org/american-muslim-poll-2020-amid-pandemic-and-protest/>.

⁹ *Id.*

¹⁰ Youssef Chouhoud, Erum Ikramullah, and Dalia Mogahed, *American Muslim Poll 2022: A Politics and Pandemic Status Report*, INST. FOR SOCIAL POLICY AND UNDERSTANDING (August 25, 2022) <https://ispu.org/american-muslim-poll-2022-1/>.

the surveyed parents indicated that their child was bullied by a teacher or school official at school versus 19% who indicated the bullying occurred online, and 64% of surveyed parents reported that their child was bullied by other students at school versus 31% reporting that their child was bullied by other students online.¹¹

While other groups experience religious discrimination — indeed, Jews reported an equal, and equally intolerable, rate of religious discrimination in 2020— “[m]ore than any other group that experiences religious discrimination, Muslims do so on an institutional, not just interpersonal, level.”¹² The 2022 ISPU American Muslim poll found that Muslims face significantly higher levels of institutional discrimination at the airport (44% of Muslims vs. 3% of the general public), when applying for a job (37% of Muslims vs. 6% of the general public), when interacting with law enforcement (38% of Muslims vs. 10% of the general public), and when receiving healthcare (27% vs. 8% of the general public).¹³

Anti-Muslim racism on the part of government structures often emerges in the creation and enforcement of anti-Muslim laws and policies that directly or indirectly lead to the curtailment of Muslim civil rights and civil liberties.¹⁴ For example, in 2017 President Trump implemented what widely became known as the Muslim Ban because of his stated intent to prevent immigration from Muslim-majority countries. “Ultimately, what began as a policy explicitly ‘calling for a total and complete shutdown of Muslims entering the United States’ has since morphed into a ‘Proclamation’ putatively based on national-security concerns. But this new window dressing cannot conceal an unassailable fact: The words of the President and his advisers create the strong perception that the Proclamation is contaminated by impermissible

¹¹ *Id.*

¹² Ikramullah & Mogahed, *supra* note 7.

¹³ Chouhoud et. al., *supra* note 9.

¹⁴ Arain & Barzegar, *supra* note 1.

discriminatory animus against Islam and its followers.” *Trump v Hawaii*, 585 US 667, 739-40, (2018) (Sotomayor, J., dissenting). In New York specifically, it is well documented that the New York Police Department (NYPD) has an extensive surveillance regime that impacts religious life and expression, chills speech, erodes trust, and has profound communal and social consequences on American Muslims.¹⁵ Other examples of the institutional anti-Muslim sentiments include anti-Shariah legislation, national and foreign policy measures, and as relevant here, zoning practices.¹⁶

II. Long Island’s Entrenched Anti-Muslim Sentiment

Recent estimates of the size of the Muslim population in New York put it at above 700,000, making it one of the fastest-growing faith communities in the state, owing to immigration, an influx of asylum seekers, and religious conversion.¹⁷ Unfortunately, as the Muslim community expands and settles into new areas of the state, pre-existing faith communities in these areas may treat their new neighbors as unfamiliar. Combined with an ambient political atmosphere of hostility towards Muslims after 9/11, and Long Island’s well-documented history of de facto segregation, Muslim communities in Nassau and Suffolk counties have encountered significant resistance.¹⁸ To understand the context of the constitutionally impermissible basis for the zoning

¹⁵ See Nermeen Arastu & Diala Shamas, *Mapping Muslims: NYPD Spying and its Impact on American Muslims*, CREATING LAW ENFORCEMENT ACCOUNTABILITY & RESPONSIBILITY (CLEAR) PROJECT (2013) <https://www.law.cuny.edu/wp-content/uploads/page-assets/academics/clinics/immigration/clear/Mapping-Muslims.pdf>.

¹⁶ Arain & Barzegar, *supra* note 1

¹⁷ See Philip Marcelo, *Mosques in NYC struggle to house and feed an influx of Muslim migrants this Ramadan*, PBS NEWS (Apr. 2, 2024, 6:39 PM), <https://www.pbs.org/newshour/nation/mosques-in-nyc-struggle-to-house-and-feed-an-influx-of-muslim-migrants-this-ramadan>.

¹⁸ In 2002, ERASE Racism, a nonprofit based in Oyster Bay, published a study on racial segregation in Long Island based on an analysis of United States Census data. The study found that, in terms of residential segregation, Long Island was the single most segregated suburban area in the entire country. See *Racism and the Opportunity Divide on Long Island*, ERASE RACISM (Jul. 2002), http://eraseracismny.org/storage/documents/education/IRP_Full_Report_with_Maps.pdf.

decision in the present case, it is important to understand how anti-Muslim bigotry has been normalized, and on the rise, on Long Island specifically.

A. There is a Rising Trend in Hate Crimes and Bias Incidents Against Muslims in New York

As described *supra*, hate crimes are by no means the only way that anti-Muslim bigotry rears its head, but it is an instructive metric for this Court to get a sense of the climate on Long Island. There is a disturbing rising trend in hate crimes and bias incidents against those who identify as Muslim, Arab, or Palestinian in New York State.¹⁹ According to internal reporting figures from the CAIR-NY, during the 18-month period from October 2021 to February 2023, the nonprofit legal services organization received 341 requests for assistance, 17 of which involved bias incidents or hate crimes, about 5% of the overall total. In a more recent 18-month period from October 2023 to February 2025, CAIR-NY received 910 requests for assistance, 143 of which involved bias incidents or hate crimes, or 15.7% of the overall total. These figures show that anti-Muslim incidents in the state have increased by upwards of eight times in just the past four years, with most of the increase occurring since late 2023.²⁰ Government statistics tell a similar story. In an August 2024 report, the Office of the New York State Comptroller found that “anti-Islamic” hate crimes in the state grew from 18 in 2018 to 37 in 2023, a 106% increase.²¹ This is especially concerning given that such incidents are typically underreported.²² In a 2022 survey among Muslims in New York State, CAIR-NY found that 64% of respondents had

¹⁹ For the purposes of this analysis, a bias incident was defined as an unwelcome or hostile act motivated by prejudice against the perceived identity of another; a hate crime was defined as a criminal offense that is motivated in substantial part by bias and is designated as a “specified offense” under New York’s Penal Law § 485.05.

²⁰ *CAIR-NY 2023 Annual Report*. CAIR-NY, <https://www.cair-ny.org/s/2023-Annual-Report.pdf> (last visited Mar. 26, 2025).

²¹ Thomas P. DiNapoli, *The Concerning Growth of Hate Crime in New York State*, OFFICE OF THE NEW YORK STATE COMPTROLLER, <https://www.osc.ny.gov/reports/concerning-growth-hate-crime-new-york-state> (last visited Mar. 25, 2025).

²² *Feeling the Hate: Bias and Hate Crimes Experienced by Muslim New Yorkers*, CAIR-NY (September 8, 2022) <https://www.cair-ny.org/feeling-the-hate-full-report>.

experienced a hate crime, bias incident, or both but only 4% of respondents reported such an incident to law enforcement.²³

There have been several notable hate crimes in Long Island in just the past four years, some of which occurred mere minutes away from MOLI's proposed site. In March 2021, an unidentified man threw acid on 21-year-old Elmont, Nassau County, in an apparent bias-motivated attack.²⁴ In November 2021, derogatory Islamophobic graffiti was scrawled on a Muslim-owned shop window in Floral Park, Nassau County.²⁵ In July 2022, in an apparent hate-motivated arson attack at Fatima Al-Zahra Mosque in Ronkonkoma, Suffolk County, an assailant threw an incendiary device similar to a Molotov cocktail at a Muslim crescent-shaped sculpture on the lawn in front of the house of worship.²⁶ In February 2024, a man—later identified as a lawyer admitted to the New York State Bar—trespassed on the property of the Islamic Center of Melville, harassed its congregants, and intentionally defiled its prayer spaces.²⁷ In July 2024, in Huntington, Suffolk County, a man rammed his car into another vehicle carrying four Muslim men wearing traditional religious dress. The assailant reportedly told the victims that they “didn’t belong here” and that he wanted to kill them,²⁸ in an incident eerily reminiscent of the heckling and harassment from passing cars which regularly occurs at MOLI during its weekly services.²⁹

²³ *Id.*

²⁴ See CeFaan Kim, *21-year-old recovering from horrifying hazardous substance attack by stranger on Long Island*, ABC7 (Apr. 22, 2021), <https://abc7ny.com/acid-attack-nafiah-ikram-hofstra-elmont/10535670/>.

²⁵ John Gralla, *Floral Park man charged with scrawling derogatory graffiti on Muslim-owned shop window*, NEWSDAY.COM (Nov. 24, 2021), <https://www.nysenate.gov/newsroom/in-the-news/2021/anna-m-kaplan/floral-park-man-charged-scrawling-derogatory-graffiti>.

²⁶ *Fire outside Long Island mosque investigated as possible hate crime*,

ABC7 (Jul. 6, 2022), <https://abc7ny.com/mosque-fire-fatima-al-zahra-ronkonkoma/12020406/>.

²⁷ *Hate crimes investigation underway after man caught on camera harassing members of mosque*, ABC7 (Feb. 23, 2024), <https://abc7ny.com/mosque-trespass-harassment-islamic-center-of-melville/14460773/>.

²⁸ Cecilia Dowd, *Suffolk man faces hate crime charges, accused of ramming car with 4 Muslim men in it*, NEWS12 LONG ISLAND (Jul. 18, 2024), <https://longisland.news12.com/suffolk-man-faces-hate-crime-charges-accused-of-ramming-car-with-4-muslim-men-in-it>.

²⁹ Complaint at 60.

Muslims are not the only religious minority facing these incidents. The Suffolk County Police Department data revealed that in 2016, its Hate Crime Unit examined a total of 276 potential bias incidents; in 2018, that number rose to 322.³⁰ In June 2021, a group of teenagers attacked a 13-year-old Sikh boy in Syosset, a hamlet in the Town of Oyster Bay, mere minutes' drive away from the proposed site in MOLI's expansion plan. The attackers, mistakenly assuming that the boy was Muslim, called him "Mohamed" as they punched him and subjected him to racial slurs.³¹

These hateful incidents are perhaps the ugliest manifestation of anti-Muslim and anti-"other" hate on Long Island and have had a profound impact on the well-being of the community. According to local Muslim leaders, these incidents are a major contributing factor in the worsening mental health crisis facing their community members, part of a concerning nationwide trend.³² In April 2021, a study by the Journal of the American Medical Association found that nearly 8% of American Muslim adults reported a suicide attempt in their lifetime—compared with 6% of Catholics, 5% of Protestants, and 3.6% of Jewish respondents.³³ Local Muslim community centers like MOLI have been critical in addressing this crisis. In a 2022 interview, Mufti Mohammad Farhan, Executive Director of the Islamic Center of Long Island ("ICLI"), said that Muslim community centers are "often the first responders to mental health

³⁰ *Hate at Home: A News 12 Special Report*, NEWS12 LONG ISLAND, <https://projects.news12.com/hate-at-home:-a-news-12-long-island-special-report/> (last visited Mar. 25, 2025).

³¹ *CAIR-NY Condemns Apparent Hate Attack on 13-Year-Old Sikh Boy Called 'Mohamed' by Assailants*, CAIR-NY (Jun. 2, 2021), https://www.cair.com/press_releases/cair-ny-condemns-apparent-hate-attack-on-13-year-old-sikh-boy-called-mohamed-by-assailants/.

³² Majd Al-Waheidi, *Imams Address a Mental Health Crisis Among Muslim Americans*, FEET IN 2 WORLDS (Dec. 29, 2022), <https://www.fi2w.org/imams-address-a-mental-health-crisis-among-muslim-americans/>.

³³ Rania Awaad et. al., *Suicide Attempts of Muslims Compared With Other Religious Groups in the US*, 78 J. Am. Med. Assn. Psych. 9 (2021), <https://pmc.ncbi.nlm.nih.gov/articles/PMC8295887/>.

crises” affecting congregants, and Muslims affected by bias incidents increasingly rely on the mental health resources offered by these centers.³⁴

B. Long Island’s Elected Representatives Have Reinforced Local Anti-Muslim Sentiment

The rise in hate crimes and bias incidents in Long Island specifically is not a coincidence. Especially since 9/11, anti-Muslim bias on Long Island spread through top-down normalization by the area’s most prominent politicians. Perhaps most responsible for this phenomenon is former United States Congressman Peter King (“Rep. King”). In 2011, as chair of the House Committee on Homeland Security, Rep. King initiated a series of Congressional hearings designed to investigate the “radicalization” of Muslim Americans.³⁵ In response, fifty-five Muslim, Arab, Middle Eastern and South Asian organizations from across the country sent a letter to the Committee calling the hearings an “irresponsible attack on American Muslims.”³⁶ Forty religious, secular, and interfaith groups urged King to discontinue the hearings, for “undermining fundamental American values, eroding trust, and fueling divisiveness by casting suspicion over an entire community.”³⁷ According to the American Civil Liberties Union (“ACLU”), Rep. King’s hearings were “never intended to seriously examine real threats to our national security.” Instead, they “served as a megaphone to propagate counterproductive anti-Muslim rhetoric based on stereotypes.”³⁸

Rep. King’s apparent motivation for these hearings was his inherent mistrust of the Muslim communities on Long Island who were his constituents. In a 2007 radio appearance with

³⁴ Al-Waheidi, *supra* note 32.

³⁵ Dave Goldiner, *Rep. Peter King to hold hearings on 'radicalization' of American Muslims, critics fear witchhunt*, NEW YORK DAILY NEWS (Dec. 19, 2010), https://www.nydailynews.com/ny_local/2010/12/19/2010-12-19_rep_peter_king_to_hold_hearings_on_radicalization_of_american_muslims_critics_fe.html

³⁶ Dina Sher, *A Hearing on a Hearing: Rep. Peter King Prioritizes Navel Gazing*, ACLU.ORG (Jun. 21, 2012), <https://www.aclu.org/news/national-security/hearing-hearing-rep-peter-king-prioritizes-navel>.

³⁷ Goldiner, *supra* note 35.

³⁸ Sher, *supra* note 36.

prominent right-wing television host Sean Hannity, Rep. King estimated that “85 percent” of mosques in the United States were controlled by “extremist leadership,” and advocated for the surveillance of Muslim Americans and intense scrutiny of their community leaders.³⁹ When asked about these comments in a subsequent interview with Politico magazine, Rep. King said that there are “too many mosques in this country.”⁴⁰ Referring to his own district, he added that “there has been a lack of full cooperation from too many people in the Muslim community,” and the government should therefore “infiltrate” mosques nationwide in order to investigate their ties to terrorism.⁴¹

One unfortunate legacy of the King hearings was the normalization of mistrust of Muslim communities in mainstream Long Island politics. Despite widespread condemnation for his anti-Muslim rhetoric, Rep. King enjoyed continued electoral support and represented Congressional districts in Long Island for 13 two-year terms until his retirement in 2021. Rep. King therefore represented a winning political formula. Thus, unsurprisingly, for the past two decades, politicians seeking local office on Long Island have often modelled themselves after him, sought his endorsement, and adopted his anti-Muslim rhetoric, instilling fear in voters about their Muslim neighbors.

Current County Executive of Nassau County Bruce Blakeman has publicly accused Muslim New Yorkers and their communities of ties to terrorism without proof. In 2010, Blakeman issued a statement opposing the construction of Park51, a planned Muslim community center and prayer space in lower Manhattan, because if built it would “symbolize extremism to

³⁹ Daniel W. Reilly, *Rep. Peter King: There are "too many mosques in this country"* POLITICO NOW BLOG (Sep. 19, 2007), <https://www.politico.com/blogs/politico-now/2007/09/rep-peter-king-there-are-too-many-mosques-in-this-country-003213>.

⁴⁰ *Id.*

⁴¹ *Id.*

most families of the 9/11 victims.”⁴² Park51 gained media attention after Pamela Geller, an anti-Muslim political activist based on Long Island,⁴³ labelled it the “Ground Zero Mega Mosque.”⁴⁴ Foreshadowing the comments which his constituents would later make in opposition to the proposed MOLI site,⁴⁵ Blakeman likened the Park51 project to a “memorial to terrorism rising at Ground Zero.”⁴⁶ Finally, in a joint press conference with Rep. King during Blakeman’s 2014 campaign for New York’s 4th Congressional District, Blakeman denounced his opponent, Kathleen Rice, for appearing at a community event at the ICLI, because the event also featured Imam Siraj Wahhaj, a widely respected Muslim leader based in New York. Blakeman accused Wahhaj of participating in the 1993 World Trade Center bombing,⁴⁷ an absurd claim which by then had been thoroughly debunked.⁴⁸ A spokesperson for Rice said Blakeman was simply trying to “score political points on Sept. 11” and called his actions “shameful.”⁴⁹

Blakeman is not alone among politicians in Nassau County for his anti-Muslim rhetoric. Vibhuti Jha, a Republican nominee for the 16th District of the New York State Assembly made a series of posts on Twitter against Muslims and other religious minorities, saying: “unfortunately

⁴² Bruce Blakeman, *Issue Position: Mosque*, VOTESMART.ORG, <https://justfacts.votesmart.org/public-statement/555142/issue-position-mosque&speechType=7> (last visited Mar. 25, 2025).

⁴³ Besides her campaign opposing the construction of Park51, Geller is perhaps best known for promoting “birther” conspiracies about former President Barack Obama, for organizing a cartoon contest to draw the Prophet Muhammad, and for her anti-Muslim activist group, Stop Islamization of America. See Daniel Burke, *Pamela Geller, 'Queen Of Muslim Bashers,' At Center Of N.Y. 'Mosque' Debate*, HUFFPOST.COM (Aug. 20, 2010), https://www.huffpost.com/entry/pamela-gellerqueen-of-mus_n_689709.

⁴⁴ Justin Elliot, *How the "ground zero mosque" fear mongering began*, SALON.COM (Aug. 16, 2010), https://www.salon.com/2010/08/16/ground_zero_mosque_origins/.

⁴⁵ “Does anybody remember that there were two towers in Manhattan or did people forget and now we’re asked to put a place like this in downtown [B]ethpage really?!” Complaint at 9.

⁴⁶ Blakeman, *supra* note 42.

⁴⁷ Ed Weintrob, *Islamic event tiff roils Rice-Blakeman race*, THEJEWISHSTAR.COM (Oct. 30, 2014), <https://www.thejewishstar.com/stories/islamic-event-tiff-roils-rice-blakeman-race,5453?page=1>.

⁴⁸ COUNCIL ON AMERICAN-ISLAMIC RELATIONS, *Imam Siraj Wahhaj to Speak at Mosque Fundraiser*, https://www.cair.com/cair_in_the_news/nh-imam-siraj-wahhaj-to-speak-at-mosque-fundraiser/ (last visited Mar. 26, 2025).

⁴⁹ *Opponent criticizes DA Rice for signing on to event*, ISLAMIST WATCH (Oct. 25, 2014), <https://www.meforum.org/islamist-watch/opponent-criticizes-da-rice-for-signing-on-to>.

Islam has no concept of reciprocity & respect for others. Unless sharia slavery goes nothing will change ... Extremism is in islamic [sic] theology, sadly, practised [sic] by all.”⁵⁰

In short, anti-Muslim hate has strong footholds on Long Island that are encouraged and promoted by top elected officials. It is therefore no surprise that MOLI has faced bigotry at every turn not just from outspoken community members, but from elected officials and the Oyster Bay Planning Advisory Board itself.

III. Oyster Bay is Not Unique Within the State and National Landscape of Years-Long Anti-Mosque Zoning Battles

Within the larger context of anti-Muslim discrimination, institutional anti-mosque actions can manifest through years-long zonings battles at the local level. In its 2020 Mosque Survey, ISPU collected data on the city and neighborhood resistance Muslim communities face in the attempt to develop mosques.⁵¹ In response to new survey question that asked if the mosque had experienced any significant resistance from the city zoning board or the neighborhood when the mosque had to seek permission to build, move, or expand, approximately 28% of mosques responded affirmatively, with most mosque leaders commenting that most of the resistance came from the neighborhood.⁵² This has not always been the case. Before the 1980s, there was little resistance when a mosque asked local authorities for permission to build, move, or expand. Between 1980-2009, however, about a quarter of mosques experienced resistance. And the highest rates of local resistance have been most recently from 2010 to 2019 with 35% of mosques experiencing resistance.⁵³

⁵⁰ Candace Ferrette, *Nassau County Assembly candidate Vibhuti Jha apologizes for anti-Muslim, anti-Sikh tweets*, NEWSDAY.COM (Nov. 4, 2022), <https://www.newsday.com/long-island/politics/elections/vibhuti-jha-assembly-sillitti-tweet-x21edhk7>.

⁵¹ Ihsan Bagby, *Report 1 of the US Mosque Survey 2020: Basic Characteristics of the American Mosque*, INST. FOR SOCIAL POLICY AND UNDERSTANDING (June 2, 2020) <https://ispu.org/report-1-mosque-survey-2020/>.

⁵² *Id.*

⁵³ *Id.*

To some extent, this tracks with the overall increase of mosques. On 9/11, there were only about 1,200 mosques across the U.S. This number nearly doubled by 2010 and rose to nearly 3,000 by 2020.⁵⁴ Unfortunately, this increase in mosques has grown in tandem with anti-mosque actions, including, in part, vandalism and threats by private actors or arbitrary “not in my back yard” opposition in the zoning context.⁵⁵ In fact, anti-mosque actions have become so commonplace that the ACLU created an interactive map to keep track of them all.⁵⁶ This map provides a concrete illustration of how anti-Muslim discrimination manifests in the zoning and planning arena, as well as at approved construction sites for mosques. These examples document statements and actions by local community members and leaders that are eerily similar to those documented in this case.

There are six such examples in New York alone from 2010 to 2018⁵⁷: (1) in May 2010, a proposed Islamic community center in Lower Manhattan drew strong opposition at the local and national level⁵⁸; (2) in October 2010, a request for a parking lot for a mosque in New Hyde Park, located in Long Island, drew a packed crowd and opposition at a zoning board meeting⁵⁹; (3) in May 2011, local Brooklyn residents vowed to stop the construction of a mosque in Sheepshead

⁵⁴ Ayman Ismail, *The Mosque Wars*, SLATE (Sept. 11, 2021, 6:25 PM), <https://slate.com/human-interest/2021/09/september-11-new-mosques-islam-ground-zero.html>.

⁵⁵ See, e.g., Miriam Axel-Lute, What Is Nimbyism and How Do Affordable Housing Developers Respond to it? SHELTERFORCE (November 17, 2021), <https://shelterforce.org/2021/11/17/what-is-nimbyism-and-how-do-affordable-housing-developers-respond-to-it/>.

⁵⁶ *Nationwide Anti-Mosque Activity*, ACLU <https://www.aclu.org/nationwide-anti-mosque-activity> (last updated October 23, 2024).

⁵⁷ These six examples of zoning, planning, and construction-site anti-mosque incidents are all drawn from the ACLU Anti-Mosque Activity data. Of the 385 overall anti-mosque incidents captured in the ACLU’s data, 35 are reported as having taken place in New York. Nationally, 62 of the 385 incidents are related to zoning, planning, or vandalism at construction sites; of these 62 incidents nationally, six are reported as having taken place in New York.

⁵⁸ Nicole Santa Cruz, *In New York, hundreds protest planned Islamic center*, LOS ANGELES TIMES (Aug. 23, 2010), <https://www.latimes.com/archives/la-xpm-2010-aug-23-la-na-0823-mosque-protest-20100823-story.html>; see also Elliot, *supra* note 44.

⁵⁹ See *Controversy Over L.I. Islamic Center Parking Lot*, CBS NEWS NEW YORK (Sep. 23, 2010), <https://www.cbsnews.com/newyork/news/controversy-over-l-i-islamic-center-parking-lot/>; see also Jennifer Kelleher, *New Hyde Park residents fight plan at Islamic center*, NEWSDAY.COM (Sep. 22, 2010), <https://www.cbsnews.com/newyork/news/controversy-over-l-i-islamic-center-parking-lot/>.

Bay, with one neighbor even threatening to bomb it and with unknown assailants vandalizing the construction site with graffiti reading “[h]e’s dead” in reference to Osama Bin Laden’s death⁶⁰; (4) in February 2016, community members rallied against a proposed mosque in Flushing, Queens, saying it would have a negative impact on the neighborhood⁶¹; (5) in September 2016, a neighborhood group in Yonkers moved to get a local building designated as a landmark after a Muslim group purchased the land for a mosque, complicating the process of using the building as a mosque⁶²; and (6) in May 2018, someone spray-painted “911-mosque” and “Terr” at the construction site of an Islamic community center in Queens Village, Queens.⁶³

IV. Federal Courts Rely on a Wide Range of Evidence in Evaluating RLUIPA violations

When considering whether government entities, and zoning boards in particular, have violated RLUIPA, Courts across the country have relied on a wide range of evidence, including the nature and extent of community opposition to the proposed zoning measure.

⁶⁰ See Jen Chung, *Would-Be Brooklyn Mosque's Fence Defaced With Dead Bin Laden Graffiti*, GOTHAMIST (May 10, 2011), <https://gothamist.com/news/would-be-brooklyn-mosques-fence-defaced-with-dead-bin-laden-graffiti>; see also Thomas Tracy, *‘What kind of America’? Hate-filled rally to stop mosque*, BROOKLYN PAPER (June 28, 2010), <https://www.brooklynpaper.com/what-kind-of-america-hate-filled-rally-to-stop-mosque/>.

⁶¹ See Sadeef Ali Kully, *Community rallies against mosque proposal*, QNS (February 4, 2016) <https://qns.com/2016/02/community-rallies-against-mosque-proposal/> (“[t]he January board meeting was an intense debate where cultural differences between the East and West were on display”); see also Ryan Brady, *City might get sued over mosque plan*, QUEENS CHRON. (September 1, 2016) https://www.qchron.com/editions/queenswide/city-might-get-sued-over-mosque-plan/article_8738ad4c-f223-54ad-97e6-76cda24febf0.html (consider the following opposition comments by Joe Amoroso, then a Kissena Park Civic Association member and its former zoning chairman, regarding capacity and parking, despite the proposal satisfying the usual metrics and studies that address these concerns: “They don’t pray standing up... What you’re gonna wind up with, very possibly, is that with the overflow, the people who can’t fit in the building will pray on the sidewalks and in the streets” and “[i]t’s almost impossible to get a parking spot because the people from Flushing Hospital park their cars there and there are doctor’s offices and other religious facilities in the area”).

⁶² See Chris Fuchs, *Islamic Community Group Sues City Alleging House Made Landmark to Stop Mosque*, NBC NEWS (September 23, 2016) <https://www.nbcnews.com/news/asian-america/islamic-community-group-sues-city-alleging-house-made-landmark-stop-n653256>.

⁶³ See *Graffiti found at construction site of Islamic center in Queens*, NY1 NEWS (March 11, 2018) <https://ny1.com/nyc/all-boroughs/news/2018/03/11/nypd-hate-crime-task-force-is-investigating-a-possible-bias-incident>; see also Michael Gannon, *Vandal scrawls 9/11 graffiti at mosque site*, QUEENS CHRON. (March 15, 2018) https://www.qchron.com/editions/queenswide/vandal-scrawls-graffiti-at-mosque-site/article_bd1eaf88-a7d6-5006-9244-a1175c21b3fe.html.

“[A]nalysis of a claim brought under RLUIPA’s nondiscrimination provision requires a ‘sensitive inquiry into such circumstantial and direct evidence of intent as may be available.’” *Chabad Lubavitch of Litchfield Cnty., Inc. v. Litchfield Historic Dist. Comm’n*, 768 F.3d 183, 199 (2d Cir. 2014) (quoting *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266 (1977)). In *Chabad*, the Second Circuit discussed the consideration of a “multitude of factors,” including statements made by community members, when “assessing discriminatory intent under RLUIPA’s nondiscrimination provision.” *Ibid.* This analysis is not unique to the Second Circuit. The Fourth Circuit similarly considers the relevance of unlawful influence held by community members with religious bias, even if the government decisionmakers display no bias themselves. See *Jesus Christ Is the Answer Ministries, Inc. v. Baltimore County, Maryland*, 915 F.3d 256, 263 (4th Cir. 2019), *as amended* (Feb. 25, 2019) (citing *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 448 (1985) and *Marks v. City of Chesapeake*, 883 F.2d 308, 311–13 (4th Cir. 1989)). The Fourth Circuit recognized that unlawful influence may be inferred, even with circumstantial evidence, where expressions of community bias are followed by irregularities in government decision-making. *Ibid.* (citing *Smith v. Town of Clarkton*, 682 F.2d 1055, 1066 (4th Cir. 1982)).

Pretextual parking and traffic concerns are squarely in the realm of RLUIPA violations.⁶⁴ It is therefore no surprise that in *Islamic Soc’y of Basking Ridge v. Twp. of Bernards*, 226 F. Supp. 3d 320 (D.N.J. 2016), Judge Michael Shipp found that that township applied parking and traffic standard discriminatorily against mosque. But what is particularly relevant to MOLI is

⁶⁴ Even before the passage of RLUIPA, federal courts applied constitutional principles to find that pretextual parking and traffic standards at the local level violated religious rights. In *Islamic Ctr. of Miss., Inc. v. City of Starkville*, 840 F.2d 293, 302 (5th Cir. 1988), “the City’s approval of applications for zoning exceptions by other churches ... undermines the City’s contention that the Board denied a zoning exception to the Muslims solely for the purposes of traffic control and public safety.”

Judge Shipp’s discussion about the larger community opposition in the Township of Bernards. In a section titled “Community Reaction to ISBR’s Application,” Judge Shipp reported that “prior to, and for the duration of ISBR’s pending application, ISBR faced numerous instances of community opposition.” *Id.* at 327. Examples noted by Judge Shipp included a January 2012 incident where “an unknown individual knocked over and stomped on ISBR's mailbox” and a September 2014 incident in which “an unknown individual placed stickers on ISBR's mailbox, spelling ‘ISIS’ in reference to the violent international terrorist group.” *Id.* Judge Shipp also specifically wrote about the anti-Muslim animus exhibited by community members who attended Board hearings to express their opposition. Judge Shipp noted alleged comments by “a suspended lawyer with extreme views regarding Islam” who urged community to members to “continue to attend [Board] meetings and create awareness among ... neighbors” and warned “about the Muslim practice of ‘taqiyya,’ [which is] deceit, condoned and encouraged in the Quran.” *Id.* at 328.

In *United States v County of Culpeper, Virginia*, 245 F Supp 3d 758 (W.D. Va, 2017), Judge Norman K. Moon denied Culpeper County’s motion to dismiss the Islamic Center of Culpeper’s claims of RLUIPA violations. Judge Moon seriously considered allegations of the significant role anti-Muslim sentiment played in pressuring County officials. In assessing the allegations, Judge Moon commented that “some of these communications (both prior to and during the subsequent public hearing) supposedly contained unabashed anti-Muslim sentiments”; that “a reasonable fact-finder could conclude that the denial was not based on an insufficient application or other good-faith reasons, but rather on anti-Muslim prejudice that would not evaporate simply by resubmitting a new application”; and that “there was a nontrivial amount of public anti-Muslim sentiment regarding the application, which was communicated by

constituents to Board members before their vote.” *Id.* at 760–70. Judge Moon also reported that “the County received many emails and phone calls from citizens about the ICC's application [to build a mosque], and allegedly ‘[m]uch of the opposition’ contained disparaging anti-Muslim comments, such as references to terrorism and the September 11, 2001 terrorist attacks.” *Id.* at 763. Considering this, the well-documented role of anti-Muslim animus played a part in Judge Moon finding that the permit denial appeared to be based on religious hostility while substantially burdening the ICC's ability to exercise its religion.

Other federal courts have also considered the influence of community members. In *Adam Cmty. Ctr. v. City of Troy*, No. 18-13481, 2020 WL 7493102, at *1 (E.D. Mich. Dec. 20, 2020), the Court discussed an email from a community member to a zoning board of appeals member that included derogatory comments about Islam and the presence of Muslims in the City of Troy. And in *Al Falah Ctr. v. Twp. of Bridgewater*, No. 11-2397, 2013 WL 12322637, at *7 (D.N.J. Sept. 30, 2013), the court considered the hostility exhibited by residents and a “[d]efendant council member's alleged statement reflecting that Al Falah's existence at the [p]roperty would be very difficult support[ed] a reasonable inference that the animus of the residents was a motivating factor in the ultimate, rather expeditious, enactment of the [o]rdrinance.”

With the aforementioned cases in mind, it stands to reason to that the years-long pressure campaign by community members, which included letters, emails, social media engagement, and comments at public board hearings, would be considered as relevant in a court’s “sensitive inquiry into such circumstantial and direct evidence of intent as may be available.” *See Arlington Heights*, 429 U.S. at 266. It also stands to reason that a court would consider the “relevance of unlawful influence held by community members with religious bias, even if the government decisionmakers display no bias themselves,” particularly if such expressions of bias unlawfully

influenced irregularities in government decision-making, such as if procedures not previously imposed in other applications were imposed here or if government officials partook in meetings they may not have otherwise been involved in. *See Jesus Christ Is the Answer*, 915 F.3d at 263.

CONCLUSION

Amici urge this court to consider the context in which this case arises, as the zoning board and opposition to the expansion of MOLI's mosque did not occur in a vacuum. Instead, it operated in a clear climate of anti-Muslim bigotry that unfortunately permeates Long Island. As demonstrated *supra*, this type of evidence is exactly what Federal Courts across the country considered in RLUIPA cases.

Respectfully submitted,

/s/Burhan Carroll

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CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2025, I electronically filed the foregoing with the Clerk of the Court for the Eastern District of New York by using ECF and therefore served on all parties or their counsel of record through the ECF system.

/s/Burhan Carroll
Burhan Carroll

Counsel for *Amici Curiae*

A. APPENDIX: AMICI STATEMENT OF INTEREST

AMERICAN-ARAB ANTI-DISCRIMINATION COMMITTEE (ADC)

American-Arab Anti-Discrimination Committee (ADC) is a civil rights organization committed to defending the rights of people of Arab descent and promoting their rich cultural heritage. ADC aims to defend and promote human rights, civil rights, and liberties of Arab Americans and other persons of Arab heritage, combat stereotypes and discrimination against and affecting the Arab-American community in the United States and educate the American public in order to promote greater understanding of Arab history and culture.

ARAB AMERICAN ASSOCIATION OF NEW YORK (AAANY)

The mission of the Arab American Association of New York is to support and empower the Arab Immigrant and Arab American community by helping them adjust to their new home and become active members of society. Our aim is for families to achieve the ultimate goals of independence, productivity, and stability. AAANY, along with being a social services organization, is an advocacy organization working in solidarity with coalitions in New York and beyond to end hate violence. AAANY is interested in anti-mosque zoning issues to advocate for communities' ability to practice their religion without opposition fueled by hate.

ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND (AALDEF)

The Asian American Legal Defense and Education Fund (AALDEF), founded in 1974, is a non-profit organization based in New York City that protects and promotes the civil rights of Asian Americans. By combining litigation, advocacy, education, and organizing, AALDEF works with Asian American communities across the country to secure human rights for all. AALDEF has worked throughout its history to ensure that Asian Americans can access social services and public goods. As counsel in *Al Falah Ctr. v. Twp. of Bridgewater*, No. 11-2397 (D.N.J.),

cited *infra*, AALDEF has a particular interest in ensuring that prejudice against Muslims does not infect the decisions of politicians across the nation.

THE ASSOCIATION OF MUSLIM AMERICAN LAWYERS (AMAL)

AMAL aims to provide essential programs and activities to help support American Muslim lawyers at every step--whether pre-law, law student, a young associate, solo practitioner, or senior partner. AMAL has organized and participated in seminars, panel discussions, and old-fashioned community activism, to promote not only the administration of justice, but also an awareness of American and Islamic jurisprudence among minority and immigrant (and especially Muslim) communities in the Tri-State area — all while emphasizing the highest standards of professionalism and integrity. This case directly concerns the ability of our members to practice their religion freely without opposition or undue restriction.

CHILDREN OF ADAM

Children of Adam is a Long Island-based nonprofit organization dedicated to enlightening minds, engaging hearts and empowering hands through knowledge and research, holistic wellness, and humanitarian service driven by Islamic values. We are a 501(c)3 non-profit organization dedicated to raising a generation of empathetic, compassionate youth who, guided by the knowledge of Islam, are motivated to make the world a better place. We provide the necessary tools and resources for rural communities to thrive in the wake of poverty, disease, and illiteracy including by offering food banks, clothing drives, after school tutoring, and more.

COUNCIL ON AMERICAN-ISLAMIC RELATIONS, NEW YORK

Council on American-Islamic Relations, New York, Inc. (“CAIR-NY”) is a civil rights organization. For over 25 years, CAIR-NY has served Muslim New Yorkers through legal advocacy, education, media relations, civic engagement, and grassroots mobilization. CAIR-NY

seeks to protect New Yorkers who have experienced discrimination, harassment and hate crimes. CAIR-NY's mission is to Islamophobia and systemic discrimination in all its forms.

ISLAMIC CIRCLE OF NORTH AMERICA, NEW YORK (ICNA NY)

ICNA is a grassroots organization seeking the betterment of society thru the promotion of Islamic values. ICNA has many projects, programs, and activities which are designed to help in the process of molding the individual and reforming society at large. ICNA's chapters across the United States engage in various activities such as educational programs, youth and sisters programs, social service, campaigns for social justice, programs to clear misconceptions about Islam and more. ICNA NY therefore has an interest in ensuring that misconceptions of Islam do not permeate government institutions and prevent the community from practicing its faith.

ICNA COUNCIL FOR SOCIAL JUSTICE

ICNA Council for Social Justice (CSJ) is a social justice/human rights organization that strives to systematically facilitate Muslim involvement in the field of human struggle for the rights of the poor and oppressed in the United States. ICNA CJS does this by cooperating with existing social justice efforts and organizing new initiatives to eliminate barriers to full citizenship rights and privileges, work to restore civil liberties required for a democratic society, and raise public awareness and work to remove the gross inequities of the U.S. criminal justice system.

JAAM'E MASJID BELLMORE

Jaam'e Masjid Bellmore is a nonprofit, religious organization and mosque located in Nassau County, Long Island. Its mission is to serve community through various services, programs and daily prayers. Jaam'e Masjid also hopes to expand its mosque to accommodate additional congregants and a library, and therefore has an interest in ensuring that it can do without opposition based on religious bigotry.

LONG ISLAND MUSLIM SOCIETY (LIMS),

Long Island Muslim Society (LIMS) is a religious, educational, and not-for-profit organization.

LIMS provides information, consultation and counseling on religious and spiritual matters.

LIMS promotes understanding and friendship among people of all faiths through its year-round interfaith programs. LIMS also partners with other organizations in providing humanitarian services to people with special needs.

MAJLIS ASH-SHURA: ISLAMIC LEADERSHIP COUNCIL OF NEW YORK

Majlis Ash-Shura: Islamic Leadership Council of New York was established to provide a uniform voice on matters that concern the Muslim community. As an umbrella of over 90 mosques and organizations, Majlis Ash-Shura of New York serves as the official representative of its members with the media, organizations, advocacy groups, political candidates, and government institutions. Additionally, Majlis Ash-Shura of New York advises and consults with its members on various key issues such as: maintaining consistent political and social justice platforms built on Islamic values, and the physical, social, and spiritual development of local communities. This includes building and expansion of mosques in New York.

HILLSIDE ISLAMIC CENTER

Hillside Islamic Center (HIC) is a non-profit charitable organization located in Nassau County, Long Island formed to perform religious and educational activities as well as social services in accordance with the teachings of the Quran and Sunnah. HIC is a multi-cultural institution that is open to all and committed to full and equal participation and involvement of its community members and others who accept its rules, regulations, and procedures. HIC also hopes to expand its own mosque and therefore has an interest in ensuring that such expansion will not be thwarted by unlawful zoning practices or bigotry.

MASJID HAMZA

Masjid Hamza is a 501(c) religious organization in Long Island, NY – a community of believers adhering to Islamic teachings of the Qur'an and the life of the Prophet Muhammad (Peace and Blessing Be Upon Him). We serve as a center for religious development, social, educational, economical, and cultural enrichment. We are committed to promoting excellence in community life and human dignity throughout our neighborhoods, cities, and country by providing services such as counseling, youth events, and educational programs.

MUSLIM AMERICAN SOCIETY, NEW YORK (MAS NY):

MAS NY is one of 30 chapters of Muslim American Society (MAS). Our mission is to move people to strive for God-consciousness, liberty, and justice and to convey Islam with utmost clarity. Our vision is a virtuous and just American society. MAS NY's aim is to establish a role model Muslim community that is well integrated and positively contributing to our American society. This includes the community's ability to practice their faith as promised by the constitution.

MUSLIM BAR ASSOCIATION OF NEW YORK

The mission of the Muslim Bar Association of New York (MuBANY) is to organize and represent Muslim attorneys in the New York area and to advance their goals, needs and interests. In addition, MuBANY strives to improve the position of the Muslim community at large by addressing issues affecting the local and national Muslim population, advancing and protecting the rights of Muslims in America, and creating an environment that helps guarantee the full, fair and equal representation of Muslims in American society. Anti-mosque zoning issues are of particular interest to MuBANY as they directly concern the ability of our members to practice their religion freely without opposition or undue restriction.

PALESTINIAN AMERICAN BAR ASSOCIATION

The Palestinian American Bar Association (PABA) is a 501(c)(6) organization that represents hundreds of Palestinian-American legal professionals and is dedicated to advancing the interests and rights of the Palestinian-American community both in the U.S. and abroad.